

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

-PS-O-

BUHENDWA BAGULA DESIRE and
KALIMIRA NABINTU GHYSLAINE,

Plaintiffs,

-v-

DECISION and ORDER
13-CV-1174S

DEPARTMENT OF HOMELAND SECURITY,
U.S. Citizenship and Immigration Service,

Defendant.

Plaintiffs have filed a *pro se* complaint under 8 U.S.C. § 1447(b) requesting a hearing and a determination of their applications for naturalization which they claim have been pending for more than 120 days with the United States Citizenship and Immigration Service ("USCIS"). (Docket No. 1.) They both seek permission to proceed *in forma pauperis* and appointment of counsel. (Docket Nos. 2-3.) Plaintiffs' motion for appointment of counsel is denied at this time without prejudice as premature,¹ and because plaintiffs have met the statutory requirements for proceeding *in forma pauperis*, see 28 U.S.C. § 1915(a), their requests to proceed *in forma pauperis* are hereby granted. In addition, the complaint has been reviewed by the Court with respect to the 28 U.S.C. § 1915(e)(2) criteria.

¹A more fully developed record will be necessary before the Court can determine whether plaintiffs' chances of success warrant the appointment of counsel. Therefore, plaintiff's motion is denied without prejudice to its renewal at such time as the existence of a potentially meritorious claim may be demonstrated. See *Hendricks v. Coughlin*, 114 F.3d 390, 392 (2d Cir. 1997) (when determining whether to appoint counsel, the Court must first look to the "likelihood of merit" of the underlying dispute).

The Clerk of the Court is directed to file plaintiff's papers, and to serve copies of the Summons and Complaint upon defendant by sending copies of the Summons, Complaint, and this Order by **certified mail** to the following, pursuant to Rule 4(i) of the Federal Rules of Civil Procedure:

- Attorney General of the United States, Main Justice Building, 10th and Constitution Avenues N.W., Washington, DC 20530;
- Civil Process Clerk, United States Attorney for the Western District of New York, United States Attorney's Office, 138 Delaware Avenue, Buffalo, New York 14202; and
- Department of Homeland Security, U.S. Citizenship and Immigration Services, Buffalo Office, 130 Delaware Avenue, Buffalo, New York 14202.

This will be deemed good and sufficient service upon defendant pursuant to Fed.R.Civ.P. 4(i)(2).

SO ORDERED

Dated: 12/17, 2013
Buffalo, New York



WILLIAM M. SKRETNY
Chief Judge
United States District Court